STATE OF MICHIGAN

COURT OF APPEALS

In re CROOK, Minors.

UNPUBLISHED
October 2, 2014

No. 320638
Wayne Circuit Court
Family Division
LC No. 09-490639-NA

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Before: METER, P.J., and K. F. KELLY and M. J. KELLY, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right the trial court order terminating their parental rights to five minor children under MCL 712A.19b(3)(c)(*i*) and (j). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interests of the children. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). We review the trial court's decision regarding termination of parental rights for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding is clearly erroneous if, although there may be evidence to support it, the appellate court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); MCR 3.902(A); *Miller*, 433 Mich at 337.

Termination of parental rights was proper under MCL 712A.19b(3)(c)(*i*) and (j). This family had a history with Children's Protective Services dating back to 2002, with many investigations and substantiations of neglect. At the time of the adjudication respondents were having difficulty caring for their children, all of whom had special needs and four of whom were "severely mentally retarded." Respondents were not administering medication properly, they

had missed medical appointments for one of the children, the children's beds were badly soiled and a crib was unsafe, they had allowed a child with the cognitive ability of a two-year-old to supervise a baby, and their house was in need of repair and was insect-infested and smelled of urine. The family was given intensive services with direct-care providers in their home in an effort to improve respondents' ability to supervise the children and meet the children's daily needs. Nevertheless, witnesses testified that there continued to be issues with lack of supervision; respondents' ability to maintain a safe, suitable home; and anger management. A therapist indicated that respondents needed professional staff to assist with daily routines and child care.

Respondents argue that they benefited from services, achieved treatment-plan goals, and addressed the issues in the case. While respondents did make some progress on their treatment plan, there was evidence that they did not achieve all of the goals set out for them and that the home environment was not sufficiently improved despite the lengthy amount of time the children had been in care. There was evidence that respondent-mother appeared uncomfortable and overwhelmed when respondent-father was away. One of the children's foster parents reported that respondent-mother asked them to pick the child up early from visits at least 10 times. Both respondents had anger-management issues,[1] which led to concerns about their ability to properly respond to the children. Furthermore, respondents were unable to manage their money, which led to the initiation of foreclosure proceedings on their house. Just weeks before the termination hearing, respondents were attempting to heat their home with their kitchen oven.

Respondent-father minimizes the safety concerns resulting from respondents' inability to properly care for and supervise the children. Respondent-father's inappropriately hostile and threatening treatment of his oldest daughter in the courtroom hallway in December 2013 demonstrated that his anger issues posed a risk of harm to the children. Moreover, in December 2012, after a several-day visit with respondents and more than a year after adjudication, one of the children returned to her foster home with such severe diaper rash she needed to be taken to a hospital emergency room for medical treatment. There were reports of the children running into the street unsupervised despite "fast" traffic. One child returned from a parental visit with black eyes and a "knot" on her forehead, and multiple explanations for these injuries were provided.

Respondent-mother argues that a guardianship for respondents was never established. However, a witness testified that respondents had been ordered to obtain legal guardians to assist them but had refused. Moreover, we note that this family was offered specialized, in-home services when it became apparent that they could not benefit from standard parenting classes and therapy. Respondent-father was resistant to the in-home services offered by Neighborhood Services Organization (NSO) and Community Living Services (CLS); given that respondents needed assistance, respondent-father's difficulty with the workers was untenable.

[1] Although a witness stated at the termination hearing that respondent-mother had made improvements in the area of anger management, the witness nevertheless had written a letter approximately 3 1/2 months before the termination hearing stating that she had concerns about anger management in connection with respondent-mother.

The trial court record shows that NSO contracted CLS to work with respondents beginning in December 2012 but respondent-father terminated their services on November 11, 2013, because he no longer wanted the workers in his home. NSO planned to replace CLS with another agency to help the family once the children were returned home. Petitioner, however, filed its termination petition shortly after respondent-father terminated CLS's services. Regardless, the evidence showed that no matter how many services were put in place and how many caregivers worked with the family, respondents were not able to provide a safe and suitable home.

The record clearly shows that the trial court and petitioner were aware of respondents' limitations from the onset of the case and that petitioner made every effort to accommodate respondents' cognitive disabilities. Respondents were provided with specialized parenting classes and therapy and hours of in-home direct-care services. There was no evidence that petitioner could have done anything more to accommodate respondents' disabilities other than help them pursue a legal guardianship for themselves, which respondents refused. The record supports that there was a reasonable likelihood that the children would be harmed if returned to respondents' care, that the conditions of improper supervision and an improper home environment leading to adjudication continued to exist, and that there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the ages of the children. Therefore, termination of parental rights was proper under MCL 712A.19b(3)(c)(*i*) and (j).

Based on the record as a whole, the trial court also did not clearly err in determining that termination of respondents' parental rights was in the children's best interests. MCL 712A.19b(5). Despite evidence of bonding and respondents' obvious love for their children, termination of parental rights was in the children's best interests because these special-needs children require a level of care that respondents are unable to provide. The children's safety and their physical and medical needs must take priority over the bond they share with respondents. Given respondents' extensive history with Children's Protective Services, their continuing issues, and their own cognitive problems, they have not been able to show that they can provide a safe and proper home for their children despite the many services that have been provided to them. It is in the best interests of the children to be raised in an environment with proper supervision, where their needs are met. Thus, the trial court did not clearly err in its best-interests determination.

Affirmed.

/s/ Patrick M. Meter
/s/ Kirsten Frank Kelly
/s/ Michael J. Kelly